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10 Attorneys for Plaintiff
11 United States of America

12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 WHOLESALE FIREWORKS
CORPORATION; AMERICAN
19 FIREWORKS WAREHOUSE, LLC;
PINK OR BLUE GENDER TEAM,
20 INC. d/b/a GENDER REVEAL
CELEBRATIONS; REFUGIO
21 JIMENEZ; ANGELINA JIMENEZ;
and DOES 1-15,

22 Defendants.
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Case No. 5:23-cv-1805 MEMF (SPx)

STIPULATED PROTECTIVE ORDER

Hon. Sheri Pym
United States Magistrate Judge

[NOTE CHANGES MADE BY THE COURT]

1 A. IT IS HEREBY STIPULATED by and between the parties, through their
2 undersigned counsel and subject to Court approval, that a Protective Order be issued to
3 permit the United States of America to release specified documents and information in
4 this litigation.

5 I. Purpose of Stipulation for Protective Order

6 1. The United States brings this action seeking to recover damages arising
7 from a wildland fire known as the “El Dorado Fire” which ignited on September 5, 2020
8 in El Dorado Ranch Park and spread to the National Forest System and Bureau of Land
9 Management lands in San Bernardino County, California.

10 2. Good Cause Statement: The parties respectfully submit that good cause
11 exists for entry of this stipulated Protective Order. The United States possesses or has
12 access to the following documents that may be relevant to the parties’ claims or defenses
13 and contain information protected from disclosure by the Privacy Act of 1974¹, including
14 information about non-parties:

15 a. Witness statements, witness interview memoranda, and recordings of
16 witness interviews, containing personally identifying information about
17 witnesses, including dates of birth, social security numbers, driver’s
18 license numbers, home addresses, and phone numbers.

19 3. The parties submit that the need for disclosure of the foregoing categories
20 of documents and information outweighs any potential harm to the parties and non-
21 parties, provided that appropriate safeguards are imposed and that the disclosed
22 documents and information are used solely in this litigation.

23 4. Other than explicitly set forth herein, this Stipulation does not apply to any
24 information or documents subject to a claim of privilege or other basis of exclusion, and
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26 _____
27 ¹ The Privacy Act generally prohibits the United States from disclosing “records”
28 of individuals without their consent. *See* 5 U.S.C. § 552a(a)(4), (b). Disclosure is
permitted, however, if made “pursuant to the order of a court of competent jurisdiction.”
Id. § 552a(b)(11).

1 is not precedent for adopting any procedure with respect to the disclosure of any other
2 information.

3 5. This Stipulation permits the United States to produce the specified
4 documents and information, but does not require production.

5 6. This Stipulation is not intended to affect the rights of any party to object to
6 discovery pursuant to the Federal Rules of Civil Procedure or other authority, nor is it
7 intended to alter any burden of proof regarding the assertion of a privilege.

8 7. Neither the Stipulation nor Protective Order constitutes a ruling on whether
9 a particular document or category of information is discoverable or admissible.

10 8. Nothing in this Stipulation prohibits a party from seeking further protection
11 by a Court-approved stipulation or applying to the Court directly.

12 9. Nothing in this Stipulation waives the right of the United States to use,
13 disclose, or disseminate documents or information in accordance with the provisions of
14 the Privacy Act or other statutes, regulations, or policies.

15 10. The Department of Justice, the United States Attorney's Office, and the
16 U.S. Forest Service bear no responsibility or liability for any disclosure made pursuant to
17 the Protective Order sought by this Stipulation.

18 II. Disclosure and Use of Protected Material

19 1. The documents and information designated as subject to the Protective
20 Order ("Protected Material") are to be used solely for the purpose of this litigation and
21 not for any other purpose whatsoever.

22 2. Documents produced pursuant to the Protective Order are designated by
23 stamping "Protected Material" on the pages of the document. Audio and video
24 recordings produced pursuant to the Protective Order are designated by including the
25 term "Protected Material" in the electronic file name, or by producing the recording with
26 a slipsheet stamped "Protected Material." Other than first and last names and work
27 addresses, personally identifiable information may be redacted.
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1 3. If the United States believes that a response to a discovery request concerns
2 documents and information subject to the Protective Order, counsel will designate that
3 response as subject to the Protective Order by interposing the phrase “Protected
4 Material” prior to the response.

5 4. Testimony taken at a deposition may be designated as Protected Material by
6 making a statement to that effect on the record at the deposition. Arrangements must be
7 made with the court reporter taking and transcribing such deposition to separately bind
8 such portions of the transcript containing such designated information, and to label such
9 portions appropriately.

10 5. Protected Material may be disclosed only to:

- 11 a. Counsel of record for the Defendants, including counsel’s affiliated
12 paralegals and clerical staff;
13 b. Expert witnesses or consultants consulted by counsel, whether or not
14 retained to testify at any oral hearing in this action, but only to the extent
15 that disclosure is necessary to aid in the formation of the expert’s or
16 consultant’s opinions in this matter; provided that they agree to be bound
17 by the terms of this Order and execute the Agreement to Be Bound by
18 Protective Order attached hereto;
19 c. Court reporter(s) employed in this action; and
20 d. The Court and its personnel.

21 6. All challenges to designations as Protected Material shall proceed under
22 Local Rule 37-1 through Local Rule 37-4.

23 7. Defendant may not lodge or file documents, pleadings, transcripts, or other
24 materials in this litigation that contain or disclose Protected Material without obtaining
25 Court approval to lodge or file the Protected Material under seal pursuant to Local Civil
26 Rule 79-5. All documents, pleadings, transcripts, or other materials lodged or filed in this
27 litigation (including any appeal) that contain or disclose Protected Material must be
28 submitted under seal. All deposition transcripts that contain or disclose Protected

1 Material must be maintained under seal and subject to the Protective Order even if they
2 are not lodged or filed with the Court.

3 8. In the event that a document protected by the attorney-client privilege, the
4 attorney work product doctrine or other applicable privilege or protection is
5 unintentionally produced by the United States, the United States may request that the
6 document be returned. In the event that such a request is made, all recipients must
7 promptly return all copies of the document in their possession, custody, or control to the
8 United States and must not retain or make any copies of the document or any documents
9 derived from such document. The unintentional disclosure of a privileged or otherwise
10 protected document does not constitute a waiver of the privilege or protection with
11 respect to that document or any other documents involving the same or similar subject
12 matter.

13 9. If Defendant's counsel learns that, by inadvertence or otherwise, he has
14 disclosed Protected Material to any person or in any circumstance not authorized under
15 this Stipulated Protective Order, he must immediately (a) notify the United States in
16 writing of the unauthorized disclosures, (b) use best efforts to retrieve all unauthorized
17 copies of the Protected Material, (c) inform the person or persons to whom unauthorized
18 disclosures were made of all the terms of this Order, and (d) request such person or
19 persons to execute the attached Agreement to be Bound by Protective Order.

20 10. Any use of Protected Material at trial shall be governed by the orders of the
21 trial judge. This Protective Order does not govern the use of Protected Material at trial.

22 11. Within 30 days of the termination of this litigation (including any appeal),
23 Defendant's counsel must return all Protected Material, not including documents filed
24 with the Court, to the United States' counsel or destroy such material. Whether the
25 Protected Material is returned or destroyed, Defendant's counsel must submit a written
26 certification to the United States that all the Protected Material was returned or
27 destroyed. If Defendant's counsel fails to do so, the United States may, after providing
28 notice to Defendant's counsel with at least three court days to cure the deficiency, file a

1 notice of noncompliance to obtain from the Court an Order to Show Cause why
2 sanctions should not be imposed.

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4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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6 Dated: May 28, 2025

Respectfully submitted,

7 BILAL A. ESSAYLI
United States Attorney
8 DAVID M. HARRIS
Assistant United States Attorney
9 Chief, Civil Division
JOANNE S. OSINOFF
10 Assistant United States Attorney
Chief, Complex and Defensive Litigation Section
11

12
13 /s/ Yujin Chun
JILL S. CASSELMAN
YUJIN CHUN
14 Assistant United States Attorneys
15 Attorneys for Plaintiff
United States of America
16

17 Dated: May 28, 2025, 2025

/s/ Devin Weisberg
18 DEVIN WEISBERG
Attorney for Defendant
19 PINK OR BLUE GENDER TEAM, INC. d/b/a/
20 GENDER REVEAL CELEBRATIONS

21 Dated: May 28, 2025, 2025

WOOD, SMITH, HENNING & BERMAN LLP

22
23 /s/ Ashley B. Beagle
24 ASHLEY B. BEAGLE
25 KEITH E. SMITH
JULIA RAMOS
26 Attorneys for Defendants, WHOLESALE
27 FIREWORKS CORPORATION and AMERICAN
28 FIREWORKS WAREHOUSE LLC

1 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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3 DATED: June 3, 2025

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7 Sheri Pym
8 United States Magistrate Judge
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